

Serial No. 10/789,585
Page 8 of 15

Remarks

Claims 1-20 and 22-29 are pending in the application.

Claims 22-27 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Claims 22-27 are rejected under 35 U.S.C. 112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. (Sync-MS: Synchronized Messaging Service for Real-time Multi-Player Distributed Games, hereinafter "Lin") in view of Lamport (Time, Clocks, and the Ordering of Events in a Distributed System, hereinafter "Lamport").

Claims 1-20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Watson Jr. et al. (US 4,633,421, hereinafter "Watson").

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same

Serial No. 10/789,585
Page 9 of 15

as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 101

Claims 22-27 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Applicants have herein amended claims 22 - 24 and 27 such that the rejection is moot.

Accordingly, Applicants respectfully submit that claims 22 - 27 satisfy the requirements of 35 U.S.C. 101 and are patentable thereunder.

Therefore, the rejection should be withdrawn.

Rejection Under 35 U.S.C. 112

Claims 22-27 are rejected under 35 U.S.C. 112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants have herein amended claims 22 - 24 and 27 such that the rejection is moot.

Accordingly, Applicants respectfully submit that claims 22 - 27 satisfy the requirements of 35 U.S.C. 112, ¶2 and are patentable thereunder.

Therefore, the rejection should be withdrawn.

Serial No. 10/789,585
Page 10 of 15

Rejection Under 35 U.S.C. 103

Claims 1-20 and 22-29 (Lin and Lamport)

Claims 1-20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Lamport. Claims 1-20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Watson. The rejections are traversed.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2141. Establishing a *prima facie* case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of non-obviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l Co. v. Teleflex, Inc.*, 126 S. Ct. 2965 (2006); see also MPEP §2141.

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Lin and Lamport fails to teach or suggest all the claim elements. Namely, Lin and Lamport, alone or in combination, fail to teach or suggest "wherein each action message received from a player comprises a reaction time associated with the action message, said reaction time being a difference between reception of an update message by the player and sending of the action message by the player in response to the update message," as claimed in Applicants' claim 1.

Serial No. 10/789,585

Page 11 of 15

Lin discloses a system in which there is full clock synchronization between the players and the game server. The full clock synchronization enables action messages to be ordered at the game server based on the time at which the action messages are sent from the players. Specifically, Lin states that “[w]ith a Sync-out mechanism in place for state update fairness, the SMS can simply deliver action messages based on their sending time tag, which reflects their fair order.” (Lin, Pg. 5, 2nd Column, Emphasis added). Similarly, Lin states that “[t]he SMS implements a Sync-in algorithm as follows. It maintains a queue of received action messages that are pending for delivery to the game server. The messages in the queue are sorted based on their sending time in ascending order.” (Lin, Pg. 5, 2nd Column, Emphasis added). Thus, in a system according to Lin, an action message merely includes a time stamp indicating the time that it was sent by the player. Lin is devoid of any teaching or suggestion of an action message including a reaction time. Thus, Lin fails to teach or suggest at least the limitation of “wherein each action message received from a player comprises a reaction time associated with the action message, said reaction time being a difference between reception of an update message by the player and sending of the action message by the player in response to the update message,” as claimed in Applicants’ claim 1.

Furthermore, Lamport fails to bridge the substantial gap between Lin and Applicants’ claim 1.

Lamport discloses a distributed algorithm for synchronizing a system of logical clocks which can be used to order events in a distributed system. Lamport is devoid of any teaching or suggestion of an action message received from a player, where the action message includes a reaction time associated with the action message, where the reaction time is a difference between reception of an update message by the player and sending of the action message by the player in response to the update message. Thus, Lamport fails to teach or suggest at least the limitation of “wherein each action message received from a player comprises a reaction time associated with the action message, said reaction time being a difference between reception of an update message by the player and sending of the action message by the player in response to the update message,” as claimed in Applicants’ claim 1.

Serial No. 10/789,585

Page 12 of 15

As such, independent claim 1 is patentable under 35 U.S.C. 103(a) over Lin in view of Lamport. Independent claims 19 and 22 recite relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, independent claims 19 and 22 also are patentable under 35 U.S.C. 103(a) over Lin in view of Lamport. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim also is patentable under 35 U.S.C. 103(a) over Lin in view of Lamport.

Therefore, Applicants' claims 1-20 and 22-29 are patentable under 35 U.S.C. 103(a) Lin in view of Lamport. The Examiner is respectfully requested to withdraw the rejection.

Claims 1-20 and 22-29 (Lin and Watson)

Claims 1-20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Lamport. Claims 1-20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Watson. The rejections are traversed.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of non-obviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of

Serial No. 10/789,585

Page 13 of 15

obviousness." In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in KSR Int'l Co. v. Teleflex, Inc., 126 S. Ct. 2965 (2006); see also MPEP §2141.

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Lin and Watson fails to teach or suggest all the claim elements. Namely, Lin and Watson, alone or in combination, fail to teach or suggest "wherein each action message received from a player comprises a reaction time associated with the action message, said reaction time being a difference between reception of an update message by the player and sending of the action message by the player in response to the update message," as claimed in Applicants' claim 1.

As described hereinabove with respect to the rejection of claim 1 in view of Lin and Lamport, Lin fails to teach or suggest at least the limitation of "wherein each action message received from a player comprises a reaction time associated with the action message, said reaction time being a difference between reception of an update message by the player and sending of the action message by the player in response to the update message," as claimed in Applicants' claim 1.

Furthermore, Watson fails to bridge the substantial gap between Lin and Applicants' claim 1.

Watson discloses a method for transposing time measurements from one time frame to another time frame. Watson is devoid of any teaching or suggestion of an action message received from a player, where the action message includes a reaction time associated with the action message, where the reaction time is a difference between reception of an update message by the player and sending of the action message by the player in response to the update message. Thus, Watson fails to teach or suggest at least the limitation of "wherein each action message received from a player comprises a reaction time associated with the action message, said reaction time being a difference between reception of an update message by the player and sending of the action message by the player in response to the update message," as claimed in Applicants' claim 1.

As such, independent claim 1 is patentable under 35 U.S.C. 103(a) over Lin in view of Watson. Independent claims 19 and 22 recite relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, independent claims 19 and 22 also are patentable under 35 U.S.C. 103(a) over Lin

Serial No. 10/789,585

Page 14 of 15

in view of Watson. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim also is patentable under 35 U.S.C. 103(a) over Lin in view of Watson.

Therefore, Applicants' claims 1-20 and 22-29 are patentable under 35 U.S.C. 103(a) Lin in view of Watson. The Examiner is respectfully requested to withdraw the rejection.

Oct-17-2008 04:01pm

From-Patterson & Sheridan, LLP - NJ

+17325309808

T-379 P.015/015 F-606

Serial No. 10/789,585
Page 15 of 15

RECEIVED
CENTRAL FAX CENTER

OCT 17 2008

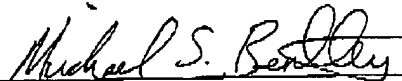
Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 10/17/08


Michael S. Bentley
Registration No. 52,613
Agent for Applicants

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808

815994-1